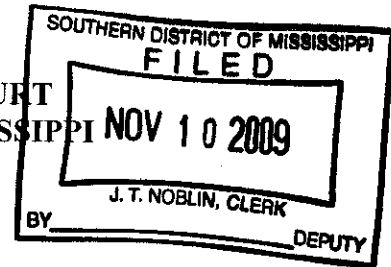


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION



AMERICA'S FOUNDATION,

Plaintiff,

v.

HEWLETT-PACKARD COMPANY,

Defendant.

Civil Action No: 3:09cv675 HTW-LRA

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1146, Defendant Hewlett Packard Company, ("Defendant"), by and through its undersigned counsel, hereby give notice of the removal of this action from the Chancery Court of Hinds County, Second Judicial District, Mississippi, to the United States District Court for the Southern District of Mississippi, Jackson Division, and in support thereof would show unto the Court the following:

I. Procedural Requirements

1. On or about October 12, 2009, America's Foundation ("Plaintiff") commenced this civil action against Defendant by filing a Complaint in the Chancery Court of Hinds County, Second Judicial District, Mississippi, styled *America's Foundation v. Hewlett-Packard Company*, Cause No. G2009-114 T/1. Pursuant to 28.U.S.C. § 1446(a), the documents attached hereto as Exhibit "1" constitute all of the process, pleadings, and orders served upon Defendant in this action.

2. As Hewlett-Packard is the only Defendant named in this action, there are no additional defendants to join in this Notice of Removal.

3. This case is properly removable pursuant to 28 U.S.C. § 1441(a), which provides in the pertinent part as follows:

Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the District Court of the United States for the district and division embracing the place where such action is pending.

28 U.S.C. §1441(a).

4. As will be explained in more detail below, this Court has original jurisdiction (diversity jurisdiction) of this case under 28 U.S.C. § 1332(a), as amended, which provides in pertinent part as follows:

(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between—

(1) citizens of different States....

28 U.S.C. § 1441(a).

5. Service of the initial pleading setting forth Plaintiff's claims for relief was effectuated no sooner than October 12, 2009. In accordance with 28 U.S.C. §1446(b), notice is filed in the United States District Court for the Southern District of Mississippi, Jackson Division, within thirty (30) days of Defendant's receipt of service of the Complaint. Therefore, the removal is timely.

II. Grounds for Removal

6. This action is removable based upon the Court's original jurisdiction, which is satisfied as a result of the diversity of citizenship and the requisite amount in controversy exceeds the statutory amount.

7. Plaintiff is now and at all times material hereto, including at the time of the commencement of this action and this Notice of Removal, a resident citizen of the State of Mississippi. Complaint, Ex. A at ¶ 1.

8. As set forth in the Complaint, Defendant Hewlett-Packard is a *nonresident* citizen of the State of Mississippi, with incorporation in Delaware and principal place of business in California. *Id.* at ¶ 2.

9. Accordingly, complete diversity of citizenship exists between the parties.

10. The amount in controversy exceeds the \$75,000.00 jurisdictional requirement for removal. In the Complaint, Plaintiff seeks four (4) alternative requests for relief: (a) specific performance of the service agreement; (b) judgment against Hewlett-Packard in the amount of \$76,500.00 in compensatory damages; (c) costs of suit; and (d) general prayer for relief.

11. Because Plaintiff seeks in excess of \$75,000.00 in damages from Defendant Hewlett-Packard, the requisite amount in controversy is satisfied in the instant matter.

12. As a result, this Court has original diversity jurisdiction over this case pursuant to 28 U.S.C. § 1332(a), because the Plaintiff and Defendant are citizens of different states, and the amount in controversy exceeds \$75,000.00, exclusive of interests and costs.

III. Other Prerequisites for Removal

13. The United States District Court for the Southern District of Mississippi, Jackson Division, is the district and division embracing the location of the state court where the suit was currently pending. 28 U.S.C. §1441(a).

14. Contemporaneous with the filing of this Notice of Removal, Defendant Hewlett-Packard will file a copy of the same with the Clerk of the Chancery Court of the Second Judicial

District of Hinds County, Mississippi, in accordance with 28 U.S.C. § 1446(d). Written notice of this Removal has been served on the adverse party.

15. Defendant reserves the right to supplement this notice of removal by adding any jurisdictional defenses which may independently support the basis for removal.

WHEREFORE, Defendant prays that this Court will take jurisdiction of this action and issue all necessary orders and process to remove this action from the Chancery Court of the Second Judicial District of Hinds County, Mississippi, to the United States District Court for the Southern District of Mississippi, Jackson Division. Further, Defendant, Hewlett-Packard serves this Notice and hereby removes this case pursuant to 28 U.S.C. § 1332, and the Plaintiff herein is notified to proceed no further in this case in the Chancery Court of the Second Judicial District of Hinds County, Mississippi unless by order of the United States District Court for the Southern District of Mississippi.

This the 10th day of November, 2009.

Respectfully submitted,



Cheri T. Gatlin, Esq. (MS Bar No. 10323)
Bradley B. Vance, Esq. (MS Bar No. 100317)
Attorneys for Defendant Hewlett-Packard Company

OF COUNSEL:
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Jackson, Mississippi 39201
Telephone: (601) 355-3434
Facsimile: (601) 355-5150

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **NOTICE OF REMOVAL** has been served on the following by U.S. Postal Service, on this the 10th day of November, 2009:

Richard Barrett
5722 Learned Road
Learned, Mississippi 39154
Counsel for Plaintiff

Eddie Jean Carr
Hinds County Chancery Court Clerk
P.O. Box 88
Raymond, MS 39154

A handwritten signature in black ink, appearing to read "E. Carr", is written over a horizontal line.

OF COUNSEL